



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 11/30/2020

ORM Number: 2017-03640-JLK

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Lawrence County/Parish/Borough: Brown

Center Coordinates of Review Area: Latitude 44.389575 Longitude -88.136258

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetlands 1(e), 1(f), 1(g), 5(b), 7(e), 7(f), 7(g), 8, 9, 10, 11, 13, 14(b), 18	1.89	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetlands 8, 9, 13, and 14(b) are surrounded by higher elevations consisting of agricultural fields. An intermittent unnamed tributary to Ashwaubenon Creek is the nearest (a)(1)-(a)(3) water located approximately 106 feet east of Wetland 8. These wetlands are within depressional areas that do not abut or are separated from the tributary by natural or man-made barriers. A review of historical aerial photos taken primarily in the spring and fall (photos taken 05/2018, 04/2017, 04/2015, 05/2011, 09/2008, 09/2006, 09/2005, 05/1992) indicate these features do not received flooding from this tributary in a typical year. The timing of the photos taken is significant because the spring and fall are seasons that typically experience increased hydrology with snowmelt and more frequent precipitation events. Even during times of increased hydrology, these photos demonstrated no flooding events or any indicators were observed signifying there was overtopping of the banks into these wetlands. did not indicate these features receive flooding from this tributary in a typical year.</p> <p>Wetlands 1(e), 1(f), 1(g), 5(b), 7(e) , 7(f), 7(g), 10, 11, and 18 abuts man-made ditches or drainage swales constructed in uplands and lacking a bed and bank. Additionally, these features were previously determined on 09/06/2019 to be outside of Corps jurisdiction. Reviewing the historical aerial photos previously mentioned also indicate these features do not contribute flooding to any wetlands on site in a typical year.</p>

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: [McMahon Associates, Inc. 2017 Wetland Delineation](#)

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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This information **is** sufficient for purposes of this AJD.

Rationale: **N/A**

- ☐ Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- ☒ Photographs: **Aerial: Google Earth**
- ☐ Corps site visit(s) conducted on: **Date(s).**
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): **2017-03640-JLK, completed 09/06/2019 on adjacently located aquatic features.**
- ☐ Antecedent Precipitation Tool: **provide detailed discussion in Section III.B.**
- ☐ USDA NRCS Soil Survey: **Title(s) and/or date(s).**
- ☐ USFWS NWI maps: **Title(s) and/or date(s).**
- ☐ USGS topographic maps: **Title(s) and/or date(s).**

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local wetland inventory maps	Wisconsin Wetland Inventory
Other Sources	N/A.

B. Typical year assessment(s): **N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.**

C. Additional comments to support AJD: **N/A or provide additional discussion as appropriate.**